

Before the  
Federal Communications Commission  
Washington, D.C. 20554

In the Matter of	)	
Multi-Association Group (MAG) Plan for	)	CC Docket No. 00-256
Regulation of Interstate Services of	)	
Non-Price Cap Incumbent Local Exchange	)	
Carriers and Interexchange Carriers	)	
	)	

**REPLY COMMENTS OF GVNW CONSULTING, INC.**

GVNW Consulting, Inc. respectfully submits these reply comments in response to the Commission's Further Notice of Proposed Rulemaking (NPRM) in the above-referenced docket. GVNW Consulting is a management-consulting firm that provides a wide variety of consulting services, including regulatory support on issues such as universal service and access reform for communications carriers in rural America.

The focus of the Commission's Further Notice is to expand the record reflected in the Commission's Second Report and Order (FCC 01-304) in this proceeding. This decision (MAG Order) addressed the petition jointly filed on October 20, 2001 by the Multi-Association Group (MAG), comprised of the National Rural Telecom Association (NRTA), National Telecommunications Cooperative Association (NTCA), Organization for the Promotion and Advancement of Small Telecommunications Companies (OPASTCO), and the United States Telecom Association (USTA). This MAG petition, the subject of the Second Report and Order, offered an interstate access reform and universal service support proposal applicable to incumbent local exchange carriers subject to rate-of-return regulation that was adopted in part, and rejected with respect to several key provisions.

In the FNPRM, through the comments previously filed and this current round of reply comments, the Commission seeks additional input as it continues to craft evolving solutions to the unique challenges that face the companies that serve high-cost, rural customers. The rate-of-return regulation that was affirmed as a part of the Commission's decision in the MAG order is in the public interest, and must continue to be included as a key element of any future rules adopted as a result of this Further Notice or any other related proceedings.

**PARTIES REPRESENTING HUNDREDS OF COMPANIES AGREE THAT ANY RURAL CARRIER REGULATORY STRUCTURE SHOULD INCLUDE THE ABILITY TO CONTINUE TO OPERATE UNDER RATE-OF-RETURN REGULATION**

In their comments, the National Rural Telecom Association (NRTA), the Organization for the Promotion and Advancement of Small Telecommunications Companies (OPASTCO), and the United States Telecom Association (USTA) agree "any incentive plan must be optional for all carriers." (NRTA, OPASTCO, and USTA, page ii) The decision to permit rural carriers to continue to deploy vital infrastructure under rate-of-return regulation was one of the most important aspects of the MAG Order, due to the wide variety of operating characteristics experienced by the many non-price cap rural carriers.

Innovative Telephone, addressing insular region issues, filed one such example of these differences. In their comments, Innovative states that ILECs that serve insular territories face circumstances that increase the cost of providing service to customers. These characteristics are directly related to the unique nature of their insular areas, the inherent geography of such regions, the topographical and geological factors, and the often severe weather that they must deal with.

In its comments, the National Telecommunications Cooperative Association (NTCA) stated: “ Optionality must be an essential component of any incentive regulation plan that the Commission may adopt in this proceeding.” (NTCA, page iii)

On the other hand, a small number of parties (e.g., AT&T, Sprint, and the Competitive Universal Service Coalition) continue in this proceeding, as they have done in other dockets, to file comments that appear to **totally ignore** what has been empirically demonstrated in the public record. What these parties are attempting unsuccessfully to do is to deflect attention away from the nature and scope of the significant differences within the subset of rural carriers that has been placed in the public record by the Rural Task Force (RTF) via its White Paper 2, entitled The Rural Difference, released in January, 2000. This second RTF White Paper offered a very detailed analysis of the major rural carrier differences. Within the IXC community of commenters, only WorldCom (at page 2 of their comments) recognized these important rural differences as they proposed different treatment for carriers above and below a 200,000-access line threshold, measured at a non-price cap ILEC holding company level.

The regulatory options available to rural rate-of-return carriers should be structured to reflect these important differences that are detailed in the RTF White Paper Number 2, and the challenges that each company faces in a wide variety of service territories. As NRTA, OPASTCO, and USTA state at page 2:

“In line with the Commission’s wise recognition and the full record on ROR ILEC’s diversity, the Commission should adopt an entirely optional alternative regulation plan, which will enable carriers to suit their form of regulation to the challenges of their service areas.” (Emphasis in the original)

THE COMMISSION ITSELF HAS OUTLINED THE POTENTIAL OF  
UNDESIRABLE RAMIFICATIONS OF A FORCED CONVERSION AWAY FROM  
RATE OF RETURN REGULATION

Once again, parties that represent hundreds of carriers state their agreement with  
GVNW's analysis in the comment round, wherein we stated at pages 3-4:

*If the Commission ultimately crafts a workable alternative regulatory option, it must be but one option for the rural carrier. It would need to be an option that could achieve a proper balance between carrier and customer interests, as opposed to a mandated migration away from the rate-of-return system that will continue to assist in meeting the goal of universal service in many portions of rural America.*

NRTA, OPASTCO and USTA concur, stating on page 4 of their joint comments:

“the diversity of ROR carriers and their customers’ need for comparable network capabilities and services precludes forcible conversion to any incentive regulation plan.”

In its discussion of the MAG incentive proposal, the Commission expressed concern about whether an incentive regulation environment could work in high-cost rural territories.

One concern expressed by the Commission was that alternatively-regulated rural carriers might have an “incentive” to reduce costs by reducing investment and expense levels (e.g., depreciation and maintenance) in order to realize greater profits that could then be retained by the company. NRTA, OPASTCO, and USTA agreed, stating at page 2 of their joint comments:

“But mandating incentive regulation before a carrier is ready risks sacrificing the carrier’s incentives to invest in evolving network capabilities and services, quality of service and reasonably comparable rural and urban rates and services.”

### Incentive-Based Regulation Productivity Factor Issues

With the wide range of company cost and operating characteristics within the rural carrier subset, we continue to believe as we stated in our comment filing that it will be problematic for the Commission to establish any sort of productivity factor that accurately can achieve the same goals as the productivity factor utilized by the much larger price cap companies. We are joined in this assessment by the Nebraska Rural Independent Companies that state at page 2 of their filing:

“ . . . small carriers serving sparsely populated rural areas . . . have no opportunity to experience productivity increases or sufficient economies of scale and would have difficulty recovering their costs under incentive regulation.”

As we stated in our comment filing, large companies have resorted to using work force reductions to meet productivity targets. Small companies, whose personnel perform multiple functions, will be unable to reduce their labor force without impacting service quality. A minimum level of fixed costs is required, regardless of carrier size. In order to have the business office open during normal business hours, there has to be at least one person present at all times. The same applies to installation and repair service. In order to provide timely scheduled as well as unscheduled maintenance, personnel must be available on-site at all times. The ability to stand ready to serve, as a carrier of last resort, carries a price tag that contains a fixed cost component.

If the Commission ultimately decides to adopt some level of productivity factor, we recommend that special consideration be given to the carriers under 200,000 access lines.

### Conclusion

An integral part of the MAG decision was the Commission's recognition of the differences that exist in rural America. If the Commission intends to continue to meet its universal service responsibility as mandated in section 254, then it must continue to allow rural carriers the option of rate-of-return regulation.

In this regard, GVNW agrees with the statement filed by NRTA, OPASTCO, and USTA on page 12:

“New regulatory approaches should not jeopardize existing options that have successful track records in delivering high quality service to communities served by small and rural ILECs.”

Respectfully submitted,

*Electronically filed – paper copies not used*

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